

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION**

STATE OF TEXAS, *et al.*, §
§
Plaintiffs, §
§
v. § Case No. 1:18-CV-68
§
UNITED STATES OF AMERICA, *et al.*, §
§
Defendants, §
§
and §
§
KARLA PEREZ, MARIA ROCHA, §
JOSE MAGAÑA-SALGADO, §
NANCI J. PALACIOS GODINEZ, §
ELLY MARISOL ESTRADA, KARINA §
RUIZ DE DIAZ, CARLOS AGUILAR §
GONZALEZ, KARLA LOPEZ, LUIS A. §
RAFAEL, DARWIN VELASQUEZ, §
JIN PARK, OSCAR ALVAREZ, §
NANCY ADOSSI, DENISE ROMERO, §
PRATISHTHA KHANNA, JUNG WOO §
KIM, ANGEL SILVA, MOSES KAMAU §
CHEGE, HYO-WON JEON, ELIZABETH §
DIAZ, MARIA DIAZ, and BLANCA §
GONZALEZ, §
§
Defendant- §
Intervenors. §

**DEFENDANT-INTERVENORS' RESPONSE IN OPPOSITION TO PLAINTIFFS'
MOTION FOR SCHEDULING ORDER**

Defendant-Intervenors oppose Plaintiffs' proposed schedule for preliminary-injunction proceedings because the proposed schedule contradicts the Court's directions to the parties and disrupts the schedule established by the Court to prepare for the hearing scheduled for May 30, 2018.

On May 15, 2018, the Court held a telephonic conference in this matter. The Court granted Defendant-Intervenors' motion to intervene during this brief conference and ordered the parties to confer regarding a schedule for preliminary injunction proceedings. The minute entry reflects the Court's orders:

Parties are to submit an agreed scheduling order as to [5] Preliminary Injunction by 05/25/18. If parties do not agree to a scheduling order each party is to submit their own scheduling order by 05/25/18. Scheduling Conference set for 05/30/18 at 11:00 am in Brownsville.

The Court's minute entry reflects that the Court has not ordered a briefing schedule for the preliminary injunction or set a preliminary injunction hearing.

To remove any doubt about scheduling, the Court clarified at the hearing that the contemplated preliminary injunction schedule is not determined by local and chamber's rules, but will be set by the Court on or after the May 30, 2018 Scheduling Conference. The Court and counsel for Defendant-Intervenors had the following colloquy during the telephonic conference:

MS. PERALES: It — it sounds like the Court is contemplating entry of the scheduling order for briefing on the motion for preliminary injunction. We have computed that currently the response to the motion for preliminary injunction is May 23rd and — and that would be after the submission on scheduling would be due on May 25th. I mean, before, I'm sorry, I'm sorry, before. So I was just wondering if the Court is contemplating setting a schedule for briefing on the PI motion that is — is different from what we're looking at currently?

THE COURT: Yes, I am contemplating that. Because I figured y'all would need more time.

MS. PERALES: Thank you, Your Honor.

Hr. Tr. 7:23–8:11.

Defendant-Intervenors are currently preparing their proposed schedule for briefing and a hearing on the motion for preliminary injunction. This schedule includes time to research and draft the response to motion for preliminary injunction as well as a proposal for development of

the factual record necessary for the resolution of the preliminary injunction motion. Defendant-Intervenors also plan that their proposed schedule will include a deadline by which Defendant-Intervenors will file a motion to dismiss based on lack of standing and Defendant-Intervenors' affirmative defenses.

On May 17, 2018, counsel for Defendant-Intervenors conveyed the above to counsel for Plaintiffs and stated the understanding of Defendant-Intervenors that a schedule to brief and hear the preliminary motion will be set by the Court on May 30, 2018, or thereafter. Because they have been working to prepare a proposed briefing and hearing schedule, Defendant-Intervenors cannot prepare a response by May 30, 2018, let alone May 25, 2018, as contemplated by Plaintiffs' proposed schedule. Defendant-Intervenors have conferred and continue to confer with potential amici and potential, additional defendant-intervenors in an effort to craft a scheduling request that balances the need for timely adjudication of the preliminary injunction motion with the need to develop a record and brief the issues. Defendant-Intervenors will file their proposed schedule as to the preliminary injunction motion on May 25, 2018, as ordered by the Court.

There is no need for undue haste in this case. Plaintiffs have waited nearly six years to challenge the 2012 guidance memo at the heart of this case. In fact, Plaintiffs' delay in filing their challenge suggests they do not suffer from the lack of an injunction of DACA.

CONCLUSION

In light of the Court's order that it will set a briefing and hearing schedule on the motion for preliminary injunction on or after May 30, 2018, and Defendant-Intervenors' reliance on the Court's order to work on a proposed schedule to resolve the preliminary injunction motion, as well as their planned motion to dismiss, Defendant-Intervenors oppose Plaintiffs' motion for a scheduling order that contravenes the Court's orders and severely prejudices Defendant-

Intervenors.

Dated: May 21, 2018

Respectfully submitted,

**MEXICAN AMERICAN LEGAL
DEFENSE AND EDUCATIONAL FUND**

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CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that, on the 21st day of May, 2018, I electronically filed the above and foregoing document using the CM/ECF system, which automatically sends notice and a copy of the filing to all counsel of record.

/s/ Nina Perales
Nina Perales